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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,506	07/23/2002	Erik Martin	P01-177-MAR	6618
27107	7590	10/03/2003	EXAMINER	
RICHARD A. JOEL ESQ. 496 KINDERKAMACK ROAD ORADELL, NJ 07649			COURSON, TANIA C	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/064,506

**Applicant(s)**

MARTIN, ERIK

**Examiner**

Tania Courson

**Art Unit**

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following:

- a) “a shatterproof glass shield” in line 2 of claim 2;
- b) “an intermediate hinge” in line 2 of claim 7, and;
- c) “a latch and mating lock” in lines 2-3 of claim 7.

must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: in line 2, “the hydrant cylinder” lacks antecedent basis. The preamble should state “A hydrant locator in combination with the cylinder of a hydrant” in order to avoid lacking antecedent basis.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject

matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lanza (US 2001/0044282 A1) in view of Monte (US 4,592,301) and Thurer (DE 3536626 A).

Lanza discloses a remotely controlled locator comprising:

- a) a belt (Fig. 6, removable attachment 14) detachably mounted about the hydrant cylinder (paragraph 54, lines 5-10) and including a latch (Fig. 3, engagement means 18), said latch comprising a lock (Fig. 3) to secure the belt about the hydrant (paragraph 54, lines 5-10), a strobe light mounted to the belt (Fig. 6, light source strobe light 20), an intermediate solar panel (Fig. 6, solar cells 24) mounted to the belt to generate an output power (Fig. 6), a power pack (Fig. 7, battery) mounted to the belt to receive the output power from the solar panel (Fig. 6), a receiver (Fig. 7, receiving means 50) mounted on said belt to receive a remote activation signal (Fig. 7), a switch (Fig. 7, antenna array 54) coupled to the receiver and operated by said activation signal to activate the strobe lights to indicate the position of a hydrant (paragraph 71, lines 1-3).
- b) a shatterproof glass shield mounted over the belt to prevent damage thereto (paragraph 50);

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- c) a transmitter (paragraph 71, lines 1-2, remote control device 60) for sending an activation signal to the receiver; and, a switch (paragraph 71, lines 1-2, switching means 62) for operating said transmitter;
- d) wherein the transmitter has a limited range to operate strobe light within a predetermined radius (paragraph 65);
- e) wherein the strobe lights operate at a predetermined speed depending on distance from the transmitter (paragraph 65);
- f) wherein the strobe lights project a predetermined color depending upon distance from the transmitter (paragraph 58).

Lanza does not disclose a hinge located approximately 180 ° opposite a latch, a plurality of interconnected lights, a plurality of intermediate solar panels alternating in an array with the lights to generate an output power, an intermediate hinge and a latch and mating lock located opposite said intermediate hinge, a power pack mounted on each end of the belt adjacent the lock and the latch, said power packs being connected to the lights to operate said lights.

Monte teaches an indicator support device that comprises a hinge (Fig. 3, hinge 44) located approximately 180 ° opposite a latch (Fig. 3). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the remotely controlled locator of Lanza, so as to include a hinge, as taught by Monte, in order to provide easier removal of the device during use of the device

Thurer teaches an indicator lighting device that comprises a plurality of interconnected lights (abstract and Fig. 1, lights 6 and 7), a plurality of intermediate solar panels (abstract and Fig. 1, solar cell modules 4) alternating in an array with the lights to generate an output power (Fig. 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the remotely controlled locator of Lanza, so as to include a plurality of lights and a plurality of solar panels alternating in an array, as taught by Thurer, in order to provide increased coverage of lighting during use of the device

It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

With respect to claims 7-8: Lanza, Monte and Thurer disclose a remotely controlled locator having a hinge, a lock, a latch and a power pack. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide an intermediate hinge, another lock having a latch and power packs, since it has been held that the mere duplication of the essential working parts of a device involves only routine skill in the art. See *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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The prior art cited on PTO-892 and not mentioned above disclosed relative devices:

O'Neal (US Des. 336,262)

Simpson et al. (US 6,260,507 B1)

Vasquez et al. (US 6,239,701 B1)

Rand (US 2,647,908)

Bokelmann (DE 10138420 A1)

Dakin (WO 9118374 A)

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania Courson whose telephone number is (703) 305-3031. The examiner can normally be reached on M-F 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (703) 308-3875. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



DIEGO F.F. GUTIERREZ  
SUPERVISORY PATENT EXAMINER  
GROUP ART UNIT 2859

TCC  
September 17, 2003